



## Montana Dental Association

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### Statement: Senate Bill 172

#### Montana Dental Association

#### Senate Committee on Business, Labor and Economic Affairs

January 29, 2013

The Montana Dental Association supports SB 172, which will prohibit insurers from dictating fees for non-covered dental services. We appreciate Sen. Walker for sponsoring this bill on behalf of the Association.

SB 172 is about fairness: fairness between insurers and dentists and fairness between patients who are covered by dental plans and those who are not. SB 172 recognizes the need to level the economic playing field so that small dental practices are not unfairly disadvantaged by large insurance companies. The bill also recognizes the unfairness of shifting the cost of care from patients who have dental benefit plans to those who do not.

In summary, MDA asks that the Committee approve SB 172 because:

- It will prevent provider contracts from including unfair provisions that allow the insurer to dictate fees for non-covered services.
- It will ensure that dentists have some relief from their inherent lack of bargaining power in contracting as providers for dental benefit plans.
- The Montana Legislature has in the past understood the disadvantage that dentists and other healthcare providers have with insurers. For example, laws have been enacted to ensure prompt payment of insurance claims and to allow "any willing provider" bidding on contracts.
- SB 172 will protect patients who do not have dental benefit plans from subsidizing the non-covered services of those who do.
- SB 172 is based on model legislation approved by the National Council of Insurance Legislators (NCOIL) in 2010. During that process, proponents and opponents had the opportunity to present their positions. While not unanimously approved by NCOIL members, the model bill represents a fair response that addresses the issue.
- Similar legislation has been approved in 29 other states, including North and South Dakota, Wyoming and Idaho.
- Some insurers have revised their policies on this matter and support the bill, but MDA is also concerned about others who may enter the Montana market or who may change their contract provisions in the future.
- SB 172 will provide a fair solution to this issue now and into the future as dental benefit plans evolve.

#### *Constituent:*

American Dental Association

# NCOIL

National Conference of Insurance Legislators

*...for the States*

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## NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL) Model Act Banning Fee Schedules for Uncovered Dental Services

*Adopted by the NCOIL Executive Committee on November 21, 2010, and by the NCOIL Health, Long-Term Care & Retirement Issues Committee on November 20, 2010.*

### Section I. Summary

This Act would prohibit a dental insurance plan from requiring a dentist who provides services to its subscribers to accept a fee set by the plan for any services except covered services.

### Section II. Definitions

- A. "Covered services" means dental care services for which a reimbursement is available under an enrollee's plan contract, or for which a reimbursement would be available but for the application of contractual limitations such as deductibles, copayments, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.
- B. "Dental plan" shall include any policy of insurance which is issued by a health care service contractor which provides for coverage of dental services not in connection with a medical plan.

### Section III. Contracts With Providers For Dental Services

- A. No contract of any health care service contractor that covers any dental services, and no contract or participating provider agreement with a dentist may require, directly or indirectly, that a dentist who is a participating provider provide services to an enrolled participant at a fee set by, or at a fee subject to the approval of, the health care service contractor unless the dental services are covered services.

*Drafting Note: Concerns exist that dental plans may react by adopting a strategy of covering all services at a nominal or de minimus fee. Such a strategy by dental benefit plans, to adopt or impose a deductible, co-payment, co-insurances or any other requirement in such a way as to provide de minimus reimbursement and avoid the impact of this model bill is contrary to the spirit and intent of this model legislation. States should consider setting a threshold of what payment would constitute; for example, "50 percent of the dentists' prevailing fee, administered consistently with policies traditionally governing covered services."*

- B. A health care service contractor or other person providing third party administrator services shall not make available any providers in its dentist network to a plan that sets dental fees for any services except covered services.

### Section IV. Penalties

Penalties provided for in *[Insert Applicable State Statute Concerning Dental Plan Contracts]* shall apply to any violation of this Act.

**Section V. Severability**

If any section, clause, or provision of this chapter shall be held either unconstitutional or ineffective in whole or in part to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be termed invalid or ineffective.

**Section VI. Effective Date**

This Act shall take effect immediately. © National Conference of Insurance Legislators (NCOIL)

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